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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,736	12/20/2001	David D. Szarka	2000-IP-000120U1	1946

28857 7590 12/30/2003

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EXAMINER

STEPHENSON, DANIEL P

ART UNIT	PAPER NUMBER
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3672

DATE MAILED: 12/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/026,736

Applicant(s)

SZARKA ET AL.

Examiner

Daniel P Stephenson

Art Unit

3672

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 August 2003 and 03 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 6,13,15,17 and 24 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 25-33 is/are allowed.
- 6) ☒ Claim(s) 1,2,7-11,34 and 35 is/are rejected.
- 7) ☒ Claim(s) 3-5,12,14,16,18-23 and 36-39 is/are objected to.
- 8) ☒ Claim(s) 6,13,15,17 and 24 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 7-11, 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murray et al. in view of Maly et al. Murray (Figures 1-6, col. 2 line 55- col. 4 line 38) discloses a collar for use with a wellbore for cementing it into place. At the base of the collar is a spring loaded check valve that biases the valve member such that it resists fluid flow out of the exit flow passage. Spaced radially around the tubular are holes which allow the influx of fluid until such time as the influx is undesired. Then an annular closure sleeve, which is retained through the use of a frangible element, is lowered using a cementing plug. This closes the radial holes on the tubular, and allows the pumping of cement through the check valve at the base. The closure sleeve contains o-rings that seal against the influx of fluid after closure. A second cementing plug is then lowered through the casing string to displace the remaining cement located therein. There is a substantially unrestricted flow path leading up to the lower check valve. Murray et al. does not disclose that there is a first set of check valves which are located on the sleeve used for closure that act upon the radial holes in the tubular. Nor does it disclose that these valves react to a difference in pressure within the collar and the outside of the wellbore. Nor does it disclose that there are holes within the closure sleeve that allow fluid passage in the sleeves first position but do not allow it in the sleeves second position. Maly et al.

Art Unit: 3672

(Figures 2-4, col. 2 lines 20- col. 4 line 36) discloses a well casing fill up device that is to be used when lowering a tubular into the wellbore. It has a closure sleeve that is movable axially within the tubular and a set of check valves that act on the closure sleeve. The check valves allow the outside fluid to enter when there is a pressure differential between the inside of the tubular and the outside. There is a substantially unrestricted flow passage through the collar. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the check valves of Maly et al. on the apparatus of Murray et al. This would be done so that the fluid entering the tubular would not go unchecked and allowed to flow both ways. It would only flow in when there was positive pressure on the valve and it would not flow out except through the secondary check valve.

***Allowable Subject Matter***

3. Claims 25-33 are allowed.
4. Claims 3-5, 12, 14, 16, 18-23 and 36-39 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

5. Applicant's arguments filed 8/21/03 have been fully considered but they are not persuasive.
6. It is the assertion of the applicant that within the Maly reference it is necessary to rupture the rupture disc to provide a substantially unrestricted flow passage between the two valves (p.3 lines 23-27). The examiner traverses this argument stating that there is a flow passage passing through the collar that is substantially unrestricted shown at numeral 34 of the Maly et al.

Art Unit: 3672

document. It is also noted that the intended use of the unrestricted flow between the valves has little, if any, patentable weight in the apparatus of claim 1.

7. It is the assertion of the applicant that the combination of Maly et al. and Murray et al. would render the device of Murray et al. unusable for its intended use. The examiner traverses this assertion. The collar containing the check valve in Maly et al., shown as (16), could replace the entire portion of the collar of Murray et al., shown at 24. This would traverse the argument that the valve would be placed in the sleeve of Murray et al. or that the ports would not align if the sleeve of Maly et al. were placed in the apparatus of Murray et al.

8. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it is generally accepted in the wellbore art the fluid pressure equalization is needed within a tubular when it is being lowered into the wellbore, or the user risks damaging the tubular. It is also generally recognized that placing a check valve on an apparatus to allow fluid to only flow in one direction is useful on many fluid passages, as it allows fluid to pressurize one side of a system without transferring that pressure back to the other side. Therefore the motivation to combine these two references has been gleaned from the knowledge generally available to one of ordinary skill in the art.

***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

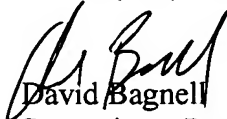
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel P Stephenson whose telephone number is (703) 605-4969. The examiner can normally be reached on 8:30 - 5:00 M-F.

Application/Control Number: 10/026,736  
Art Unit: 3672

Page 6

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David J. Bagnell can be reached on (703) 308-2151. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

  
David Bagnell  
Supervisory Patent Examiner  
Art Unit 3672

DPS 